

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,
Plaintiff,
vs.
NESTOR GONZALEZ-ALBARRAN,
Defendant.

NO. CR09-5419RJB

ORDER GRANTING JOINT MOTION
TO EXTEND TIME TO FILE
INDICTMENT UNDER SPEEDY TRIAL
ACT

The Court, having considered the parties' Joint Motion To Extend Time To File
Indictment Under Speedy Trial Act finds that:

1. Mr. Gonzalez-Albarran is charged by Information with Eluding Examination and
Inspection by Immigration Officers, in violation of Title 8, United State Code, Section
1325(a)(2) on June 1, 2000, and Second of the same offense on May 1, 2009, in violation of
Title 8, United State Code, Section 1325(a)(2). Defendant was arrested and made his Initial
Appearance on June 5, 2009. On June 5, 2009, the Court ordered that the defendant be
detained in custody pending further proceedings.

2. Under the Speedy Trial Act, an Indictment charging a defendant must be filed
within 30 days from the date on which the defendant was arrested or served with a summons

1 in connection with such charges. 18 U.S.C. §3161(b). Hence, at the present time, the United
2 States must obtain an Indictment in this case on or before July 5, 2009, to meet the
3 requirements of the Speedy Trial Act.

4 3. The defendant is diligently conducting an investigation into the circumstances
5 surrounding his situation at the time of his alleged offense. The United States also is
6 diligently conducting a forensic examination of certain computer equipment that was seized
7 from the defendant's residence. The defendant does not believe that his investigation will be
8 completed by the expiration of the time to obtain an Indictment. The parties also do not
9 believe that the results of the forensic examination will be completed by this time. The
10 defendant believes that the results of its investigation and the forensic examination will be
11 essential to preparing his defense, and may facilitate a resolution of this matter.

12 4. Accordingly, the parties are seeking an Order continuing the time within which
13 an Indictment must be filed on the ground that the "ends of justice served by taking such
14 action outweigh the best interest of the public and the defendant in a speedy trial," as
15 permitted by 18 U.S.C. §§ 3161(h)(8)(A), (B)(i) and (B)(iv).

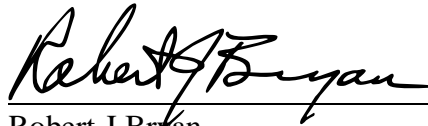
16 5. Given that the defense's investigation remains incomplete, and that the forensic
17 examination results are pending, the parties believe that the failure to grant this extension
18 would deny the defense the reasonable time necessary for adequate and effective preparation,
19 taking into account the exercise of due diligence. The parties believe that a denial of a
20 continuance would result in a miscarriage of justice.

21 6. The defendant has executed a Waiver of Speedy Trial waiving rights under the
22 Sixth Amendment and the Speedy Trial Act, 18 U.S.C. §§ 3161-3174 in this regard, and has
23 further agreed that the period from July 5, 2009, until September 1, 2009, shall be an
24 excludable period of time under the Speedy Trial Act pursuant to 18 U.S.C. §3161(h)(8)(A).

25 In light of the foregoing, IT IS HEREBY ORDERED that the time to file an indictment
26 be continued to September 1, 2009. The period of delay resulting from this continuance from

1 July 5, 2009, to September 1, 2009, is hereby excluded for speedy trial purposes under 18
2 U.S.C. §3161(h)(7).

3 DONE this 30th day of June, 2009.
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7 Robert J Bryan
8 United States District Judge

9 Presented by:
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11
12 /s/ Colin Fieman

13 Colin Fieman
14 Attorney for Defendant

15
16 /s/ John Odell

17 John Odell
18 Assistant United States Attorney
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